

US EPA ARCHIVE DOCUMENT

Endangered Species Act (ESA) Consultation and Analysis

Section 7 of the ESA requires the EPA, as a federal agency, to use its authority to conserve listed endangered and threatened species. To support this requirement, section 7(a)(2) of the ESA requires EPA to insure that an agency action, such as the issuance of construction air permits, is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat for such species.

Demonstrating that agency actions do not affect endangered and threatened species is done in consultation with the U.S. Fish and Wildlife Service (FWS). The consultation consists of two phases: an informal consultation and a formal consultation. Informal consultation involves three steps. Step 1 of the informal ESA consultation evaluates whether listed or proposed species or designated or proposed critical habitat may be present within the action area. Step 2 determines whether the agency action may affect the species or critical habitat. Step 3 evaluates whether the agency action may adversely affect species or critical habitat. If, after completing the informal consultation, it is determined that the agency action may adversely affect species or critical habitat, formal consultation may be necessary to determine whether an agency action will jeopardize species or critical habitat. More information regarding the ESA consultation process can be found online at <http://www.fws.gov/midwest/Endangered/section7/index.html>.

EPA has determined that this permit action will have “no effect” on threatened or endangered species or the critical habitat of threatened or endangered species. EPA’s rationale follows.

Step 1: Determine the presence of listed or proposed species or designated or proposed critical habitat

Based on the February 2014 Wisconsin County Distribution of Federally-listed Endangered, Threatened, Proposed and Candidate Species, the most recently published distribution list available during the time that this permit was written, EPA finds that the dwarf lake iris, a threatened species, may be present in Brown County. Additionally, the northern long-eared bat, a proposed endangered species, and the rufa red knot, a proposed threatened species, may be present in Brown County.

FWS, at http://www.fws.gov/midwest/Endangered/section7/no_effect/developed3.html, allows for the consideration of whether a facility is in a developed area when evaluating a project’s impact. A “developed area” is an area that is already paved or supports structures and the only vegetation is limited to frequently mowed grass or conventional landscaping. The facility is located within a business park that is already largely paved over and currently supports many other facilities and structures. Vegetation in the area consists mostly of conventional landscaping such as grass and decorative shrubs. Therefore, the facility is located in a developed area.

Although the facility is adjacent to areas where native vegetation can occur, the permit we are issuing does not involve the removal of native vegetation. Instead, this permit will require the facility to limit its emissions from existing emission units. The permit also authorizes the replacement of existing units at the facility with new units. The

replacement units will use the same infrastructure as the replacement units and will fulfill the same roles as the replaced units, thereby eliminating the need to break new ground to install these units. Additionally, after installation of the replacement units, most pollutant emissions are expected to decrease.

Since the facility is located in a developed area and the projects authorized within the permit will not remove native vegetation, issuing this permit will have “no effect” on the dwarf lake iris, northern long-eared bat, or the rufa red knot and each species’ critical habitat. Since issuing this permit will not affect a listed species’ critical habitat, no listed species or its critical habitat is anticipated to directly or indirectly be affected by this action.

Step 2: Determine whether the proposed action may affect listed or proposed species or designated or proposed critical habitat.

Since the facility is located in a developed area and will not remove native vegetation, this permitting action will have no effect on the dwarf lake iris, the northern long-eared bat, and the rufa red knot directly or on each species’ critical habitat.

Step 3: Determine whether listed or proposed species or designated or proposed critical habitat may be adversely affected.

Since this permitting action will have no effect on the dwarf lake iris, the northern long-eared bat, and the rufa red knot, threatened or endangered species and its critical habitat will not be adversely affected by this action.

“No Effect” Determination

Based on the above analysis, this permitting action will have no effect on any threatened or endangered species since the critical habitat of any threatened or endangered species is not present. Since EPA has determined that there will be no effect on any threatened or endangered species and critical habitat, formal consultation is not required.